

LAKE COUNTY BOARD of ADJUSTMENT
July 12, 2017
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Don Patterson, Frank Mutch, Steve Rosso, Merle Parise, Mary Jensen

STAFF PRESENT: Jacob Feistner, Rob Edington, Wade Humphries, Lita Fonda

Frank Mutch called the meeting to order at 4:01 pm

EDWARDS CONDITIONAL USE—LAKE MARY RONAN (4:01 pm)

Wade Humphries presented the staff report. (See attachments to minutes in the July 2017 meeting file for staff report.) He noted that the applicant's agent (Shaun Antonucci) had supplied a new site plan showing that the building met the setbacks, which had been handed out to the Board. (See attachments to minutes in the July 2017 meeting file for handout.)

Steve asked about the source for requiring a 50-foot vegetative buffer. Wade supplied this as section 5.D on pg. 3 of the zoning regulations. Steve asked if there was a discussion of the vegetative buffer and what could be done there for the Lake Mary Ronan regulations. Jacob said this didn't have the language like what was in Finley Point, East Shore or Upper West Shore regulations. Steve checked that a lakeshore permit had been issued for removal of 2 of the trees on the site plan that were noted to be removed from the lakeshore protection zone. Jacob said that was already permitted when the house was permitted. The garage was being done later.

On the new site plan, Steve noted the garage was moved and the border of the buildable area was also moved from 17.6 feet to 20 feet on the western side. It wasn't moved on the eastern side and probably should be moved there. The setbacks had been given incorrectly as 17.6 feet instead of 20 feet on the original plan. With the correction, the amount of buildable area shrank but not the impervious surface. The numbers should be updated. The percentage of impervious surface would change. Jacob said the agent might comment on that. Steve confirmed with Jacob that BMP's (best management practices) were used for the house. There was no mention for the garage. Jacob said Shaun could comment on that as well.

Frank said the building was labelled as a new shop. The application said this was for dry boat storage. Was this a problem? Wade said it shouldn't be.

Shaun Antonucci spoke as the agent for the project. He explained that they took the widths from the lake to the road to get the setbacks. Steve clarified that the width ran from east to west in this case. Jacob explained this had to do with the side of the lot on which it was addressed. The group discussed this further. Shaun said they had a silt fence running the full length of the property. Steve asked about vehicle access to the

shop/storage. Shaun replied the most would be something like an ATV. Mary checked that this was a floating dock. Steve asked about other impervious surfaces on the property. Wade listed the roof of the building, which the deck was also under. Shaun explained there was an apron, part of which was covered by the eave of the garage. The drive was gravel until you got to the apron of the house, which was in the vicinity of 20 feet. The apron in front of the proposed shop/storage area would be shortened where it went over the septic tank when the [proposed] garage was moved. They would probably eliminate the apron and use gravel.

Public comment opened:

Joyce Murray was from an adjoining property. The notice mentioned the last remaining trees. They looked through the 3 trees to the lake and were concerned about them being cut down. They had been told there was a 50-foot easement from lakes or streams where you didn't cut trees or build. She hauled 19.5 miles of fencing to fence off 320 acres to take the cattle off of Dayton Creek. She had defended this lake for many years. Shaun had explained to her about the culvert, which simply connected to the Plum Creek culvert because it was the old roadway that used to go to the lodge. She understood that. Shaun had also explained that those trees weren't coming down. Her basic objection was that where this shop was proposed to go was in her view of the lake. She realized that the owner had a right to build. She originally thought that shop would be much larger than 26 x 20. She asked about the size of the floating dock pieces. Shaun said 20 feet long and 6 feet wide. They could go in front of the house or they could go into the shop to protect them through the winter. There were 4 pieces that sat on top of each other in the winter.

Steve verified with Joyce that her home was not on the lakeside of the road and she estimated it was 300 to 400 feet above the road. The ground at the shop looked about 15 feet below the road elevation. It would hurt their view of the Edwards' front yard a little bit but they would look right over the top of this building. Joyce explained they were led to believe it was a much bigger building. She was no longer concerned about the garage hurting her view, now that she understood the trees were going to stand and [the size was smaller]. Steve asked about the trees indicated for removal on the plan. Shaun explained this was the original plan. Originally they'd put in for permits for the trees in the 20-foot setback off of the lakeshore. It also included trees that they might want to remove due to the building process. Since that point, they had removed 3 trees and didn't intend to remove others.

Shaun offered to have [the confusing information] removed and send a revised copy. Frank asked if staff wanted a correct copy of the site plan. Wade said they might have a condition on the conditional use so they got a correct copy of the site plan for the zoning conformance plan. Shaun said they'd take the trees that weren't being removed off of the plan. Wade mentioned the [correction to] the eastern setback as well.

Steve suggested on pg. 9 in finding #7 to include some standard wording about using BMP's during the construction. He noted also that the percentage of impervious surface amount would need to be updated there. Jacob suggested adding, "Further water quality

will not be impacted adversely if BMP's are used." Frank asked about the 34% [impervious surface]. Wade said that could certainly be corrected. Shaun mentioned the County had calculated the buildable area. He estimated they'd lose roughly 200 square feet. He thought it might fit in the 'plus or minus'. Steve gave an example of how they wanted to be sure.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the conditional use based on the finding of fact with the changes discussed, and the conditions and terms with the percentage of allowable impervious surface updated to show the change in the buildable area of the lot. Motion carried, all in favor.

BOWMAN-WERMER VARIANCE & CONDITIONAL USE—EAST SHORE
(4:28pm)

Rob Edington introduced Denise Bowman Wermer and her father, Gerald Bowman, and presented the staff report. (See attachments to minutes in the July 2017 meeting file for staff report.) On pg. 11 in #2, 'approximately 90 feet' was corrected to 'approximately 100 feet'.

Frank asked if MDT (MT Department of Transportation) was involved. Rob described that staff received a MDT letter saying that they had no comment. It didn't appear that new access was being proposed. Condition #8 on pg. 20 covered approvals needed from MDT.

A letter of public comment received today had been handed out to the Board members.

Denise Bowman Wermer thought Rob covered things.

Public comment opened: No public present to comment. *Public comment closed.*

Regarding the commercial use, Steve asked how their business compared in size with the others in the district. Denise said they were not the largest although one of the largest. Steve asked if they would become the largest through this expansion. Denise didn't think so. They weren't expanding the number of fruit trees nor would how they did business change. It was just a matter of eliminating the 3 semi-trailers they were using for storage and replacing them. The semi-trailers weren't aesthetically pleasing and were hard to get in and out of. The application was for the expansion of an existing business was for potentially storing the overflow wine from the existing [operation]. She confirmed for Steve that some other orchards had buildings as large as or larger than this proposed one.

Don mentioned he drove by there regularly. Removing the three trailers was a big thing and very helpful. Gerald said these would be moved to Washington.

Steve discussed possible changes to the findings of fact. On pg. 15 in the third line of B, 'buildable with' should be 'buildable width'. On pg. 17 in C, he suggested adding a sentence after the first one that read, "Many of the surrounding properties include structures designed, constructed, operated and maintained in a similar fashion to the

proposed structure.” He thought it was important to say that this was an acceptable impact because it was similar to what else was going on there. On pg. 18 at the end of C, he added a sentence to the end saying, “The proposed expansion of the business will not create a business that is out of character with other existing businesses in the area.” Moving to the conditions, in #7 (pg.20) he wondered if the word ‘approval’ should be ‘permit’ since a building permit would be required from the state for a commercial building. Rob wondered if an agricultural exemption might apply. The applicants should contact the Building Codes Bureau. Jacob suggested using ‘approval and/or permit’ in condition #7.

Based on the letter and the discussion of the semi-trailers, Frank wanted to make sure the use of semi-trailers for normal delivery purposes and so forth would be unaffected and this would not be construed as a ban of semi-trailers. At the end of the first printed line at the top of pg. 18 (after ‘currently used’), Don suggested adding ‘for long-term storage’. The group discussed this. Frank thought it would be prudent to add this.

Motion made by Frank Mutch, and seconded by Don Patterson, to approve the variance and conditional use subject to the changes and additions to the [recommended staff] findings and conditions. Motion carried, all in favor.

MINUTES --Deferred

OTHER BUSINESS (4:55 pm)

Frank Mutch, chair, adjourned the meeting at 4:55 pm.